

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JACQUIS HOUSTON

PETITIONER

v.

CAUSE NO. 3:17CV1031-LG-RHW

BILLY SOLLIE

RESPONDENT

**ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING
MOTION TO DISMISS**

This cause comes before the Court on the [8] Report and Recommendation of United States Magistrate Robert H. Walker, entered in this cause on May 29, 2018. The respondent in this habeas corpus action filed a motion to dismiss on the grounds that the petitioner may not have pending criminal charges against him dismissed by means of federal habeas corpus. Alternatively, the respondent argued that the petitioner had failed to exhaust his state court remedies to the extent that he had made a speedy trial claim; because he did not first make a speedy trial claim in the Lauderdale County Circuit Court, the state courts could not and did not consider them on the merits. Thus, the claims in this federal habeas petition had not been fairly presented to the state courts. The petitioner did not file an objection to Magistrate Judge Walker's determination that dismissal of the habeas corpus petition was appropriate on the basis that it prematurely and impermissibly seeks to raise constitutional claims through federal habeas corpus provisions.¹ Therefore,

¹ The Report and Recommendation was delivered via certified mail sometime prior to June 4, 2018. (Acknowledgment of Receipt, ECF No. 10). Petitioner filed a [9] Motion for Order to Show Cause on June 4, 2018, which demanded his release from state custody but did not address either Respondent's Motion to Dismiss or the

the Court need only review the Report and Recommendation to determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

After having reviewed the Report and Recommendation, the record in this case, and the relevant law, the Court finds the Magistrate Judge's conclusions neither clearly erroneous nor contrary to law. The Court will grant the respondent's Motion to Dismiss and dismiss the petitioner's habeas corpus petition with prejudice.

IT IS THEREFORE ORDERED AND ADJUDGED that the [8] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on May 29, 2018, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the respondent's [7] Motion to Dismiss is **GRANTED**. Plaintiff's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is **DISMISSED** with prejudice.

SO ORDERED AND ADJUDGED this the 28th day of June, 2018.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE

Magistrate Judge's Report and Recommendation. Magistrate Judge Walker denied this Motion. (See Order, ECF No. 11.)